

### **REMARKS**

Applicants would first like to thank Examiner Mehrmanesh for the in-person interview conducted on Tuesday, Oct. 17, 2006. An interview such as this is very helpful in advancing prosecution of this patent application and the Applicants are very grateful for the examiner's time and attention to this matter. The amendments made by this paper are consistent with the proposals and discussions presented during the interview.

In the Office Action dated September 20, 2006, claims 1, 2, 12-18, and 22-31 were rejected under 35 U.S.C. 102(b) as being anticipated by Koizumi et al. (U.S. Patent No. 4,789,986). Claims 4-11, 20-21, and 32-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koizumi et al. (U.S. Patent No. 4,789,986) in view of Choquier et al. (U.S. Patent No. 5,951,694).<sup>1</sup>

By this amendment, claims 1, 17, 25, 26, 32, and 35 are amended such that claims 1-40 remain pending. Support for the claim amendments may be found generally within the Specification.<sup>2</sup> Claims 1, 17, 25, 32, and 35 are the only independent claims which remain at issue.

As discussed during the interview, the present invention is directed generally towards embodiments for selectively identifying data fields of state information for an application instance which may be checked by a consistency checking module. Claim 1, for example, recites an embodiment that includes selectively identifying data fields which are a subset of all state information and selectively identifying an event upon which consistency checking will be performed and, upon determining that the event has occurred, performing the consistency checking on the data fields. Claim 17 recites a computer program product comprising computer-readable media for implementing the method of claim 1, while claim 25 recites a similar method with some functional "steps for" language.

The only other independent claims are directed towards related method (claim 32) and computer program product (claim 35) embodiments in which a function call is received from an application program through an API that indicates an inconsistency has been found within a selectively identified subset of state information and, in response to the function call, state information is set to indicate that the application instance is in recovery mode. Claim 35 recites a computer program product embodiment of the method recited in claim 32.

It will be noted that the primary reference of record, Koizumi, is directed towards specific embodiments for receiving redundant data and a method for selecting correct data from the redundant data. Koizumi does not, however, teach or suggest any embodiment in which selective identification of data fields is performed, nor the selective identification of an event upon which occurrence will

---

<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

<sup>2</sup> Support may also be found within the Specification as more particularly pointed out in discussions of amendments.

commence the consistency checking of the subset of data fields, as claimed, for example, in combination with the other recited claim elements.<sup>3</sup>

Applicants would also like to note that, as discussed in the in-person interview of Oct. 17, 2006, the referenced figures from Koizumi (which were solely relied upon for teaching certain elements) clearly fail to teach or suggest the elements that are recited in the claims, as previously presented or as now amended. Particularly, figures 4, 5, and 6 and item 1011 from figure 10a had been cited for teaching "identifying a plurality of data fields of state information corresponding to the instance that are to be subject to consistency checking, the plurality of data fields representing less than all of the state information corresponding to the instance." The specification of Koizumi, however, instructs that figures 4, 5, and 6 represent "a format of file edit data," "a format of file edit initial data," and "a format of a file edit message," respectively.<sup>4</sup> Koizumi further defines item 1011 of figure 10a as "read data from receiving buffer."<sup>5</sup> Applicants respectfully submit that "a format of file edit data," etc., and "reading data from [a] receiving buffer" cannot be read to teach "identifying a plurality of data fields of state information corresponding to the instance that are to be subject to consistency checking, the plurality of data fields representing less than all of the state information corresponding to the instance."<sup>6</sup> This distinction between the present invention and Koizumi was discussed at the in-person interview of Oct. 17, 2006, and Applicants submit that this distinction was made clear during the discussions.<sup>7</sup> The same cited portion of Koizumi had been cited in the rejection of the other independent claims and Applicants submit that Koizumi is likewise deficient as prior art for rejection of each independent claim.<sup>8</sup>

In view of the foregoing, it is clear that amendments are not necessary to distinguish the claimed invention from the cited art. Nevertheless, Applicants have provided clarifying amendments by this paper to further clarify the claimed embodiments and to help reduce any confusion that the Examiner may have experienced with regard to the scope of the independent claims.<sup>9</sup> The amendments clarify and explicitly recite the inherent feature of the claimed invention with regard to that selective identification of the subset of data fields to be consistency checked and the selective identification of an event which will prompt the consistency checking.

---

<sup>3</sup> See, generally, Koizumi et al., U.S. Patent No. 4,789,986 (filed Aug. 11, 1986).

<sup>4</sup> See Koizumi col. 2 lines 5-7.

<sup>5</sup> See Koizumi fig. 10a and col. 5 lines 14-15.

<sup>6</sup> See claim 1.

<sup>7</sup> Unfortunately, Applicants were unable to obtain an Interview Summary indicating any agreement was reached inasmuch as the Examiner scheduled and conducted the in person interview without the presence of a Primary or Supervisory Examiner.

<sup>8</sup> Applicants do not surrender the applicability of any particular cited art not discussed but submit that which has been discussed is sufficient to overcome the rejections of record.

<sup>9</sup> The amendments offered are not offered to overcome any issue of patentability. As stated, Applicants submit that the claims, as previously presented, were in condition for allowance as the cited prior art did not teach all the elements. Applicants offer the present amendments for purposes of clarification only.

The secondary reference, Choquier, also fails to remedy the inadequacies of Koizumi. In particular, Choquier also fails to teach or suggest any embodiment in which selective identification of data fields is performed, nor the selective identification of an event upon which occurrence will commence the consistency checking of the subset of data fields, as claimed, for example, in combination with the other recited claim elements. In fact, Choquier was merely cited for the proposition that a function call can be received through an API.

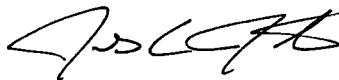
In view of the foregoing and in further view of the clarifying amendments having been made to the independent claims, Applicants submit that all the claims are now in condition for prompt allowance. Accordingly, Applicants respectfully request the allowance of the claims as now presented.

In view of the foregoing, Applicants respectfully submit that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicants acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicants reserve the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicants specifically request that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 31<sup>st</sup> day of October, 2006.

Respectfully submitted,



RICK D. NYDEGGER  
Registration No. 28,651  
JENS C. JENKINS  
Registration No. 44,803  
WORKMAN | NYDEGGER  
Attorneys for Applicants  
Customer No. 047973